

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

JASON LINDELL CHAMBERS,

Appellant.

DOCKET NUMBER WD76085

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 1, 2014

APPEAL FROM

The Circuit Court of Buchanan County, Missouri
The Honorable Patrick K. Robb, Judge

JUDGES

Special Division: Pfeiffer, P.J., Witt, J., and Fischer, Sp.J.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Richard A. Starnes, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent,

Samuel Buffaloe, Assistant Public Defender
Columbia, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
Respondent,)
v.) **OPINION FILED:**
) **July 1, 2014**
JASON LINDELL CHAMBERS,)
)
Appellant.)

WD76085

Buchanan County

Before Special Division Judges: Mark D. Pfeiffer, Presiding Judge, Gary D. Witt, Judge, and Zel M. Fischer, Special Judge

Jason L. Chambers appeals the judgment of the Circuit Court of Buchanan County, Missouri, finding him guilty, following a bench trial, of possession of a controlled substance, § 195.202. Chambers does not challenge the sufficiency of the evidence related to the present conviction; instead, Chambers argues that the trial court erred in sentencing him as a persistent drug offender pursuant to section 195.275.

In his sole point on appeal, Chambers argues that the trial court erred in sentencing him as a persistent drug offender because the State failed to prove that he had “previously” been convicted of two prior felony drug offenses as the drug sentencing enhancement statute required. Chambers does not contest that he was convicted of felony delivery of a controlled substance in March 2004 and felony possession of a controlled substance in June 2011. However, he argues that the *June* 2011 conviction cannot be used to enhance his present conviction since the present conviction related to acts that occurred in *February* 2011, four months *before* his June 2011 conviction.

AFFIRMED.

Special Division holds:

The legislature intended that all felony drug convictions previous to the trial court’s persistent offender status determination may be considered by the trial court to enhance

punishment under the drug enhancement statutes. This interpretation is consistent with Rule 23.08, which, subject to certain limitations not applicable in this case, permits the State to amend its information at any time before verdict and with section 558.021.3, which dictates that in the procedural posture of a bench trial, the trial court “may defer the proof and findings of [persistent drug offender status] to a later time, but prior to sentencing.”

In this case, the State amended its information five days before Chambers’s guilty verdict to include a charge of persistent offender status; and immediately prior to Chambers’s guilty verdict and sentencing five days later, the trial court considered the State’s then existing proof supporting its second amended information as to persistent offender status. Pursuant to Rule 23.08, section 558.021.3, and section 195.275, the trial court’s actions were authorized.

Opinion by: Mark D. Pfeiffer, Presiding Judge

July 1, 2014

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.